

## REMARKS

Claims 271, and 332 – 337 and 340 are pending in the present application. Claims 271, 332 and 340 stand rejected under 35 USC 102(b) as anticipated by De Juan, US Patent 5,109,844. Claims 333 – 337 stand rejected under 35 USC 103 as obvious in view of De Juan and Byers US patent 4,969,468. Claim 271 has been amended to more particularly point out applicant's invention.

Applicants believe the electrode structure in De Juan would be ineffective and have amended claim 271 to distinguish over the prior art. De Juan shows a void with electrodes of opposite polarity within a single void. With such a structure, almost all of the current would pass between the electrodes within the void and not stimulate neurons. This defocuses stimulation and waists precious power. In contrast, the present invention suggests electrodes within voids to focus current into tissue and avoid current traveling along the electrode array surface or within the saline vitreous.

Therefore, applicant has amended claim 271 to include the limitations  
*at least one electrode recessed within each void,*  
*wherein electrodes within a void have a common polarity.*

This new limitation distinguishes over De Juan and particularly points out how applicants focus stimulation by placing electrodes within voids. All claims in the present application depend from claim 271 and distinguish over the prior art by the changes made to claim 271.

If for any reason the Examiner finds the application other than in condition for allowance, and the Examiner believes that a teleconference may be helpful, the Examiner is invited to call the undersigned attorney at (818) 883-5055 to discuss the steps necessary for placing the application in condition for allowance.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 50-0922. In particular, if this response is not

timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 50-0922.

Respectfully submitted,

February 12, 2009

Date

By:                     /Scott Dunbar /                    

Scott B. Dunbar  
Reg. No. 37,124  
Second Sight Medical Products, Inc.  
12744 San Fernando Road, Building 3  
Sylmar CA 91342  
Phone (818) 833-5055  
Fax (818) 833-5080